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# HOUSE BILL No. 1075

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## DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 4-15-10-1; IC 9-13-2-176.5; IC 9-15-2-0.5; IC 9-15-2-3.

**Synopsis:** BMV employee whistleblower protection. Establishes certain protections for an employee of the bureau of motor vehicles commission (BMVC) who reports a violation of federal, state, or local laws or the misuse of public resources. Requires the BMVC to adopt a disciplinary personnel policy by rule that provides that if the result of a disciplinary appeal is not agreeable to the employee, the employee is entitled to institute a civil suit for a further appeal of the discipline, and that a prevailing employee is entitled to costs of the action.

**Effective:** Upon passage.

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## Liggett

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January 7, 2003, read first time and referred to Committee on Appointments and Claims.

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First Regular Session 113th General Assembly (2003)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2002 Regular or Special Session of the General Assembly.

## HOUSE BILL No. 1075

A BILL FOR AN ACT to amend the Indiana Code concerning motor vehicles.

*Be it enacted by the General Assembly of the State of Indiana:*

1 SECTION 1. IC 4-15-10-1 IS AMENDED TO READ AS  
2 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. As used in this  
3 chapter:

4 "Agency" means any state administration, agency, authority, board,  
5 bureau, commission, committee, council, department, division,  
6 institution, office, service, or other similar body of state government  
7 created or established by law. However, the term does not include **the**  
8 **following**:

9 (1) State colleges and universities.

10 (2) **The bureau of motor vehicles commission unless the**  
11 **bureau of motor vehicles commission has decided to be under**  
12 **the jurisdiction and rules adopted by the state ethics**  
13 **commission, as provided in IC 9-15-2-2.2(a)(2).**

14 "Appointing authority" means the individual or group of individuals  
15 who have the power by law or by lawfully delegated authority to make  
16 appointment to a position in an agency.

17 "Employee" means an employee of an agency except an elected



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official.

"Supervisor" means an individual who oversees the daily activity of an employee.

SECTION 2. IC 9-13-2-176.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 176.5. "Supervisor", for purposes of IC 9-15-2, has the meaning set forth in IC 9-15-2-0.5.**

SECTION 3. IC 9-15-2-0.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 0.5. As used in this chapter, "supervisor" means an individual who oversees the daily activity of an employee.**

SECTION 4. IC 9-15-2-3 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 3. (a) If the commission has established a code of ethics for its employees under section 2.2(a) of this chapter, an employee of the commission may submit a written report to the employee's supervisor or a commission employee with authority greater than the employee's supervisor concerning the existence of a violation of a federal law or regulation, a violation of a state law or rule, a violation of an ordinance of a county or municipality (as defined in IC 36-1-2-11), or the misuse of public resources. However, if:**

**(1) the employee believes that the supervisor and the commission employee with authority greater than the employee's supervisor are committing a violation or misusing public resources; or**

**(2) the employee reports the suspected violation or misuse to the supervisor or commission employee with authority greater than the employee's supervisor and a good faith effort is not made to correct the problem within a reasonable time;**

**the employee may submit a written report of the violation or misuse to any person, agency, commission, or organization.**

**(b) If an employee submits a report under subsection (a), the employee may not:**

**(1) be dismissed from employment;**

**(2) have salary increases or employment related benefits withheld;**

**(3) be transferred or reassigned;**

**(4) be denied a promotion the employee otherwise would have received; or**

**(5) be demoted;**

**solely for submitting the report.**

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(c) Notwithstanding subsections (a) and (b), an employee must make a reasonable attempt to ascertain the accuracy of any information submitted in a report and may be subject to disciplinary actions, including suspension or dismissal, for knowingly furnishing false information, as determined by the employee's supervisor.

(d) An employee disciplined under subsection (c) may appeal the disciplinary action under the procedure set forth in a personnel policy adopted by a rule of the commission. The rule must provide that, if the result of the decision reached in the appeal is not agreeable to the employee, the employee may institute a civil action to appeal the disciplinary action. The preferred venue for the civil action is in the county in which the employee is employed.

(e) If the employee prevails in a civil action brought under subsection (d), the court shall allow the employee reasonable attorney's fees, including litigation expenses, and costs.

SECTION 5. [EFFECTIVE UPON PASSAGE] (a) Notwithstanding IC 9-15-2-3, as added by this act, the bureau of motor vehicles commission shall adopt a personnel policy that includes a disciplinary procedure described in IC 9-15-2-3(d), as added by this act. The policy must provide that, if the result of the decision reached in the appeal is not agreeable to the employee, the employee may institute a civil action to appeal the disciplinary action. The bureau of motor vehicles commission shall carry out the duties imposed on it by IC 9-15-2-3, as added by this act, under interim written guidelines approved by the bureau of motor vehicles commissioner.

(b) This SECTION expires on the earlier of the following:

(1) The date rules are adopted under IC 9-15-2-3, as added by this act.

(2) January 1, 2004.

SECTION 6. An emergency is declared for this act.

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